

# Exhibit O

## Declaration of D. Booher

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF NORTH DAKOTA  
BISMARCK DIVISION

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STATE OF IOWA, et al.,

Plaintiffs,

Case No. 1:24-cv-00089-CRH

v.

COUNSEL ON ENVIRONMENTAL  
QUALITY, and BRENDA MALLORY,  
in her official capacity as Chair.

Defendant.

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**DECLARATION OF DOUG BOOHER**

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I, Doug Booher, declare that the following is true and correct:

1. I am the Director of the Environmental Affairs Division of the Texas Department of Transportation (TxDOT). I have held this position since October of 2021.
2. With over 80,700 centerline miles of highways, 55,000 bridges and 500 million daily vehicle miles of travel, Texas is home to the most extensive and heavily used state transportation system in the nation.
3. As a state department of transportation participating in the Federal Highway Administration's NEPA (National Environmental Policy Act) Assignment Program,<sup>1</sup> TxDOT has been authorized to conduct NEPA reviews on the Federal Highway Administration's behalf for federally funded highway projects in Texas since 2014.

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<sup>1</sup> The formal name for the NEPA Assignment Program is the "Surface Transportation Project Delivery Program," *see* 23 U.S.C. §327.

4. Under the NEPA Assignment Program, TxDOT is required to comply with the Council on Environmental Quality's (CEQ's) rules<sup>2</sup> in conducting NEPA reviews of its federally funded transportation projects.

5. I am providing this declaration in support of Texas's challenge to the Final Rule published by CEQ titled, "National Environmental Policy Act Implementing Regulations Revisions Phase 2," 89 Fed. Reg. 35442 (May 1, 2024) ("Final Rule").

6. CEQ's rules were already lengthy and complicated. The Final Rule adds many new administrative requirements that will only increase the procedural complexity for agencies, and several other rule changes that are problematic for other reasons.

7. Examples of upcoming projects in Texas that may be directly affected by the Final Rule include, but are not limited to, the Regional Parkway-North Padre Island Project and the 36A South Project. The Regional Parkway-North Padre Island Project would potentially construct a new crossing from the City of Corpus Christi to North Padre Island. This new crossing would improve the resiliency of the existing transportation network especially in times of emergency response and hurricane evacuation. It would also improve mobility and provide travel options especially during peak season travel demand. The 36A South Project would potentially construct a freeway on new location for approximately 33 miles to serve northern Fort Bend County and Waller Counties.

8. The Final Rule adds to the complexity of the environmental review process for these and other projects, for example by establishing new regulatory requirements regarding monitoring and compliance plans for mitigation, quantification of greenhouse gas emissions, effects on communities with environmental justice concerns, and explanations of the relevance of each reference material incorporated into the environmental document.

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<sup>2</sup> 40 C.F.R. Parts 1500-1508.

9. The Final Rule makes it more challenging for agencies like TxDOT to navigate the NEPA process, resulting in further delays of needed transportation projects and critical infrastructure.

  
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Doug Boelter

24 July 2024

Date